

UNITED STATES DISTRICT COURT

Comcast of Georgia/Massachusetts, Inc. and Comcast of Middletown, Inc. and Comcast of Boston, Inc. and Comcast of California/Massachusetts/ Michigan/Utah, Inc. and Comcast of Maine/New Hampshire, Inc. and Comcast of Massachusetts I, Inc. and Comcast of Massachusetts II, Inc. and Comcast of Massachusetts III, Inc. and Comcast of Massachusetts/New Hampshire/Ohio, Inc. and Comcast of New Hampshire, Inc.)
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Plaintiffs,

VS.

Joseph Amaro, Dimas Amaro, and Joseph Amaro and Dimas Amaro, Jointly d.b.a. CABLEJOINT and D's Electronics

Defendants

Case No.: **04-cv-10414-RCL**

ASSENTED TO MOTION TO AMEND

SCHEDULING ORDER

NOW COME the Plaintiffs in the above-captioned case and, with the assent of the Defendants they respectfully request that this Court extend all pertinent deadlines in this case by two months.

Specifically, the Plaintiffs move that the Scheduling Order be modified such that the new dates are as follows:

1. Deadline for fact discovery and to amend the Complaint and/or add new Defendants to January 2, 2006.

Certification pursuant to LR D. Mass 7.1 (A) (2)

Plaintiffs' Counsel certifies that he has conferred with Defendants' counsel yesterday and Defendant's Counsel fully assents to the extension.

2. Deadline for the Plaintiffs expert disclosure January 3, 2006
3. Deadline for the Defendants expert disclosure February 3, 2006.
4. All discovery due by March 3, 2006.
5. Motions due by April 5, 2006

As grounds, the Plaintiff states:

1. Plaintiffs sent written discovery, Interrogatories, Request for Production, and Requests for Admissions to Defendants on July 29, 2005.
2. After there was no timely response whatsoever to the served discovery, the Plaintiffs and the Defendants reached an agreement that the Plaintiffs would waive their rights with respect to there being no response made by August 29, 2005. In consideration thereof, the Defendants agreed to waive objections to the discovery and agreed to respond to discovery by September 23, 2005.
3. Portions of the written discovery were received by facsimile on September 23, 2005 and remaining portions of the written discovery were received by facsimile yesterday afternoon.
4. Plaintiffs' Counsel has yet to meet with personnel of the Plaintiffs' to review the late received written discovery. After an appropriate review of the written discovery response, some further discovery may be needed.
5. Plaintiffs may have to do additional elements of discovery because, somewhat surprisingly, some of the discovery response appears to be at odds with stipulations made in a related criminal case involving the Defendants.
6. Despite having just received the written discovery response, the Plaintiffs are nonetheless going forward with four depositions tomorrow. After the scheduled depositions, some further discovery may be needed.

7. In light of the late discovery response, the somewhat surprising elements of the response and in light of the fact that Plaintiffs can only now do the depositions, the Plaintiffs will need more time to complete discovery.
8. Take note of the fact that while there have been extensions in the past, these extensions were based upon the fact that the Defendants and/or their relatives were unable to appear at scheduled and noticed depositions and/or there had been no response to written discovery (as opposed to what is now late response).

In further support of this motion, see affidavit of John M. McLaughlin and take note of the fact that the Defendants assent to this request of extension.

Respectfully Submitted for the Plaintiff,
By Its Attorney

10/6/05
Date

/s/ John M. McLaughlin
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CERTIFICATE OF SERVICE

I, John M. McLaughlin, attorney for the Plaintiff, hereby certify that on the 6th day of October 2005, a copy of the foregoing motion and affidavit were sent via first class mail to

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/s/ John M. McLaughlin
John M. McLaughlin